

The Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

JULIE DALESSIO, an individual,  
  
Plaintiff,

v.

UNIVERSITY OF WASHINGTON, a  
Washington Public Corporation; ELIZA  
SAUNDERS, Director of the Office of  
Public Records, in her personal and official  
capacity; ALISON SWENSON, Compliance  
Analyst, in her personal capacity; PERRY  
TAPPER, Public Records Compliance  
Officer, in his personal capacity; ANDREW  
PALMER, Compliance Analyst, in his  
personal capacity; JOHN or JANES DOES  
1-12, in his or her personal capacity,  
  
Defendants.

No. 2:17-cv-00642-MJP

DEFENDANTS' RESPONSE TO  
PLAINTIFF'S OBJECTION TO NEW  
EVIDENCE IN DEFENDANTS' REPLY  
TO SECOND MOTION FOR  
SUMMARY JUDGMENT

**Noted For Hearing:  
Friday, April 19, 2019**

Defendants make this limited response to Plaintiff's "Objection to New Evidence in Defendants' Reply to Second Motion for Summary Judgment" to correct the record. Plaintiff's objections are misplaced and appear to be made solely to manufacture potential appellate issues where none exist.

Defendants' motion was very clear that these documents were included to show Defendants requested and non-Defendant University staff located and transmitted only personnel and department records related to Ms. Dalessio's prior *employment* with the University, not any type of "patient" file (to the extent she may even have any patient files at a healthcare facility related to the University of Washington—these Defendants would

DEFENDANTS' RESPONSE TO PLAINTIFF'S  
OBJECTION TO NEW EVIDENCE IN DEFENDANTS'  
REPLY TO SECOND MOTION FOR SUMMARY  
JUDGMENT - 1  
2:17-cv-00642-MJP

1010-00051

KEATING, BUCKLIN & MCCORMACK, INC., P.S.

ATTORNEYS AT LAW  
801 SECOND AVENUE, SUITE 1210  
SEATTLE, WASHINGTON 98104  
PHONE: (206) 623-8861  
FAX: (206) 223-9423

not know) *Dkt. 163* at p. 8:16-19. This evidence was submitted in direct rebuttal to Plaintiff's argument (or implied suggestion) in her summary judgment opposition brief that any files or documents produced might have been derived from some type of personal "patient" records related to medical treatment as opposed to Ms. Dalessio's employment.

Plaintiff's position that a moving party may never attach supporting evidence on reply to rebut arguments made by the Plaintiff in response to motion would defeat the purpose of permitting a reply brief. Further, Plaintiff's argument is illogical. The parties have never disputed Defendants were acting within the scope of their duties. In fact, Plaintiff has openly asserted it in order to even bring a 42 U.S.C. § 1983 claim. *Naffe v. Frey*, 789 F.3d 1030, 1035–36 (9th Cir. 2015). Plaintiff's confusing argument has no merit. Defendants' evidence (*Dkt. 164-1*) does not introduce any new arguments.

To the extent Plaintiff insinuates these documents were not "produced" before, that is false. Plaintiff has had these records since late-2017. They were reproduced to her and/or her attorney multiple times and outlined in detail again in Eliza Saunders' discovery responses in August of 2018. *Dkt. 164-1*, at p. 9. Both Plaintiff and Defendants have previously filed portions of this exhibit previously and documents identifying the transmittal emails with citations. See *Dkts. 136-1, 113* at p. 9, *113-12, 108-3*.

DATED: April 30, 2019

KEATING, BUCKLIN & McCORMACK, INC., P.S.

By: /s/ Jayne L. Freeman

Jayne L. Freeman, WSBA #24318  
Special Assistant Attorney General for Defendant  
801 Second Avenue, Suite 1210  
Seattle, WA 98104  
Phone: (206) 623-8861  
Fax: (206) 223-9423  
Email: jfreeman@kbmlawyers.com

DEFENDANTS' RESPONSE TO PLAINTIFF'S  
OBJECTION TO NEW EVIDENCE IN DEFENDANTS'  
REPLY TO SECOND MOTION FOR SUMMARY  
JUDGMENT - 2  
2:17-cv-00642-MJP

1010-00051

KEATING, BUCKLIN & McCORMACK, INC., P.S.

ATTORNEYS AT LAW  
801 SECOND AVENUE, SUITE 1210  
SEATTLE, WASHINGTON 98104  
PHONE: (206) 623-8861  
FAX: (206) 223-9423

**CERTIFICATE OF SERVICE**

I hereby certify that on April 30, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

**Attorney for Plaintiff**

Mr. Joseph Thomas  
14625 SE 176th Street, Apt. N-101  
Renton, WA 98058-8994  
Telephone: (206) 390-8848  
Email: joe@joethomas.org

DATED: April 30, 2019

/s/ Tia Uy

Tia Uy, Legal Assistant